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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Ake Sjoberg

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NOVAK, DRUCE + QUIGG L.L.P. - PERGO

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EXAMINER

MUSSER, BARBARA J

ART UNIT

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1746

MAIL DATE

DELIVERY MODE

09/14/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/580,255	Applicant(s) SJOBERG, AKE	
	Examiner BARBARA J. MUSSER	Art Unit 1746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 1-16 is/are pending in the application.
- 5a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 6) ☐ Claim(s) ____ is/are allowed.
- 7) ☒ Claim(s) 1-16 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 7-10, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drees et al. in view of Chen et al. '678.

Drees et al. discloses it is known to make a decorative laminate by applying a decorative sheet and a protective wear layer to a core material of particleboard or MDF, and then heating and bonding in a laminate press which bonds the layers together.([0004]-[0005]) Drees et al. does not disclose a pattern on the particleboard core comprising recessed and protruding portions. Chen et al. '678 discloses it is known in the decorative laminate arts to use a core with an embossed surface.([0002];[0022]) Embossing forms recessed and protruding portions on a surface. It would have been obvious to one of ordinary skill in the art at the time the invention was made to emboss the core of Drees et al. since Chen et al. '678 shows this is a known feature in decorative laminates which would allow the pattern to be in register with the printed design layer.[0020] When this embossed core was heated in the laminate press of Drees et al., it would impart its surface structure to the other layers. As to the decorative sheet being cellulose, Drees et al. discloses that the printed layers are typically alpha cellulose.[0006] One in the art would appreciate the decorative layer

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in Drees et al. and Chen et al. '678 would be cellulose since the reference discloses it is paper[0056], and does not suggest it is a different type of paper than the alpha cellulose used in the prior art.[0006]

Regarding claims 7 and 8, Drees et al. discloses the decorative and protective layers can be impregnated with melamine formaldehyde resin.[0008] Both layers are made of cellulose.[0006]

Regarding claims 9 and 10, Chen et al. '678 discloses that aluminum oxide particles with a particle size of 20-200 nanometers can be present in the wear layer.[0031] It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the particles of Chen et al. '678 in the wear layer of Drees et al. to provide improved resistance to wear.[0031]

3. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Drees et al. and Chen et al. '678 as applied to claim 1 above, and further in view of O'Brien et al.(U.S. Patent 6,551,678).

The references cited above do not disclose how the embossing of the core occurs. O'Brien et al. shows it is known to machine a pattern into a substrate.(Col. 10, ll. 20-25) It would have been obvious to one of ordinary skill in the art at the time the invention was made to machine the pattern into the core of Drees et al. and Chen et al. '678 since O'Brien et al. shows this is a known method of applying a pattern to a substrate.(Col. 10, ll. 20-25)

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4. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drees et al. and Chen et al. '678 as applied to claim 1 above, and further in view of Duvall.(U.S. Patent 2,803,188).

The references cited above do not disclose how the embossed pattern is applied to the core. Duvall discloses it is known to apply a pattern to a fiberboard core by spraying the core with water and then embossing it between a patterned roller and a counter roller.(Figure; Col. 3, ll. 35-50) It would have been obvious to one of ordinary skill in the art at the time the invention was made to emboss the fiberboard core of Drees et al. and Chen et al. '678 by spraying the core with water and then embossing it between a patterned roller and a counter roller(Figure; Col. 3, ll. 35-50) since this cause the surface of the board to yield readily to the embossing pressure. Water is considered a solvent.

5. Claims 11, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drees et al. and Chen et al. '678 as applied to claim 1 above, and further in view of Cannady, Jr. et al.(U.S. Patent 3,948,713).

The references cited above do not disclose the specifics of the bonding of the layers together in the press. Cannady, Jr. et al. discloses a method of making multiple decorative laminates where a pattern is applied to the surface of the wear layer using a metal foil which is cushioned from the surface of the press via a support layer(11). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a metal foil with a cushion to apply a pattern to the surface of the decorative laminate since this is a well-known method of applying texture to the surface

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of a laminate as shown for example by Cannady, Jr. et al.(Figure; Col. 2, ll. 36-Col. 3, ll. 41)

Regarding claim 13, since the metal foil can be only 0.0003 inches thick, any pattern on it would be considered a micro structure.(Col. 3, ll. 40-41)

6. Claims 1, 2, 7, 8, 12, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drees et al. in view of Rauch(U.S. Patent 3,492,194)

Drees et al. discloses it is known to make a decorative laminate by applying a decorative sheet and a protective wear layer to a core material of particleboard or MDF, and then heating and bonding in a laminate press which bonds the layers together.([0004]-[0005]) Drees et al. does not disclose a pattern on the particleboard core comprising recessed and protruding portions. Rauch discloses it is known when forming panels to emboss a wood surface and cover it with a colored plastic film which can have a variety of embossed designs.(Col. 1, ll. 25-43) Embossing forms a pattern of recessed and protruding portions. It would have been obvious to one of ordinary skill in the art at the time the invention was made to emboss the core of Drees et al. since Rauch shows this is a known feature in wood panels and since the embossed pattern would enhance its aesthetic value.(Col. 1, ll. 38-42) When this embossed core was heated in the laminate press of Drees et al., it would impart its surface structure to the other layers particularly since Rauch shows the layers are pressed into the protrusions and recesses of the core. One in the art would appreciate the decorative layer in Drees et al. and Rauch would be cellulose since the reference discloses it is paper[0056], and

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does not suggest it is a different type of paper than the alpha cellulose used in the prior art.[0006]

Regarding claim 2, Rauch discloses machining the pattern into the wood.(Col. 2, ll. 17)

Regarding claims 7 and 8, Drees et al. discloses the decorative and protective layers can be impregnated with melamine formaldehyde resin.[0008] Both layers are made of cellulose.[0006]

Regarding claim 12, Rauch discloses using a press roller or other means which have the pattern of the embossments in the core to press the layers into the embossments. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a press plate rather than a press roll with the patterned embossments to insure the pattern on the pressing surface was aligned with the pattern on the wood core particularly since Rauch discloses it was known in the prior art to use a press plate or roll to press the film onto the wood core indicating these are known alternatives in the art.(Col. 1, ll. 70-71)

7. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drees et al. and Rauch as applied to claim 8 above, and further in view of Chen et al. '678.

The references cited above do not disclose having particles in the wear layer. Chen et al. '678 discloses that aluminum oxide particles with a particle size of 20-200 nanometers can be present in the wear layer.[0031] It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the particles of

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Chen et al. '678 in the wear layer of Drees et al. and Rauch to provide improved resistance to wear.[0031]

8. Claims 11, 13, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drees et al. and Rauch as applied to claim 1 above, and further in view of Cannady, Jr. et al.(U.S. Patent 3,948,713).

The references cited above do not disclose the specifics of the bonding of the layers together in the press. Cannady, Jr. et al. discloses a method of making multiple decorative laminates where a pattern is applied to the surface of the wear layer using a metal foil which is cushioned from the surface of the press via a support layer(11). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a metal foil with a cushion to apply a pattern to the surface of the decorative laminate since this is a well-known method of applying texture to the surface of a laminate as shown for example by Cannady, Jr. et al.(Figure; Col. 2, ll. 36-Col. 3, ll. 41)

Regarding claim 13, since the metal foil can be only 0.0003 inches thick, any pattern on it would be considered a micro structure.(Col. 3, ll. 40-41)

Response to Arguments

9. Applicant's arguments filed 6/27/11 have been fully considered but they are not persuasive.

Regarding applicant's suggestion that examiner is contradicting herself by now stating that the core of Drees does not disclose embossing a pattern into the core,

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examiner never stated Drees et al. discloses such. Rather examiner stated that Drees et al.'s surface had a texture, that of being smooth. A texture does not have to be applied to a substrate, it can be an inherent part of the substrate, just like burlap has a texture. In fact, the closest definition of texture appears to be "the visual characteristics and appearance of something". There is nothing in this definition to require the texture to be rough or patterned.

Regarding applicant's argument that Chen et al. is not a decorative laminate, examiner does not state Chen et al. is a decorative laminate but rather that it shows something known in the decorative laminate arts. Chen et al. discloses the invention is a surface covering panel and then states that a surface covering panel includes "laminates".[0020] This clearly suggests that "laminates" in this art include more than preformed layers joined together. Additionally, the reference discloses the invention can be used in place of current laminate overlays.[0051] Both of these indicate that one in the art would appreciate that the panel of Chen et al. was in the same art, i.e. the decorative laminate art, as Drees et al. since it is called a laminate and can be used as a replacement for the conventional laminates used.

Regarding applicant's argument that the claim does not require embossing the core, examiner agrees the claim only requires the core to have a pattern with raised and recessed regions. Examiner was simply using embossing as a shorthand method of referring to the raised and recessed portions, and as a commonly used means of forming such a pattern in a surface.

Regarding applicant's argument that the layers of Chen et al. are not laminae, examiner never stated it was a laminate. However, it is noted that the definition of laminate appears to be made of laminae and laminae are defined as layers. (Merriam Webster) The word layers does not require preformed sheets.

Regarding applicant's argument that he has always claimed that the surface structure of the core is imparted to the layers, applicant only made that change in July of 2010. Additionally, the claim did not always state that this texture comprised "recesses and protrusions" as applicant asserts but rather, applicant made this change in January 2011.

Regarding applicant's argument that Rauch is not a decorative sheet comprising cellulose, if it was, the claim would be anticipated by Rauch. The fact that the reference does not teach all of the claim limitations does not mean it cannot be used to modify a reference. That is the essence of obviousness.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BARBARA J. MUSSER whose telephone number is (571)272-1222. The examiner can normally be reached on Monday-Thursday; alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katarzyna Wyrozebski can be reached on (571)-272-1127. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JOHN GOFF/
Primary Examiner, Art Unit 1746

BJM
/B. J. M./
Examiner, Art Unit 1746

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